

BEFORE THE  
WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 183

Served August 15, 1962

IN THE MATTER OF:

Application of Holiday Tours, Inc., )	
8410 Wisconsin Avenue, N.W., )	
Washington 14, D. C., for a )	Application No. 18
Certificate of Public Convenience )	
and Necessity )	

Pursuant to Section 4(a), Article XII, Title II, Washington Metropolitan Area Transit Regulation Compact, Holiday Tours, Inc., seasonably filed an application for a certificate of public convenience and necessity, said certificate to authorize such transportation as it was bona fide performing on March 22, 1961, the effective date of the Compact.

In its "grandfather" application, Holiday Tours, Inc. (hereinafter referred to as Holiday) alleged that it was engaged in sightseeing and charter operations in "interstate" commerce throughout the Metropolitan District and "intrastate" in the District of Columbia and Montgomery and Prince George's Counties, Maryland, in both buses and limousines. As a part of its application, Holiday filed various exhibits which purport to support its claim. To clarify the information contained in the application, the Commission's staff held an informal conference with Holiday's president and attorney.

Prior to the Compact's effective date, the regulation of for-hire passenger transportation in the Metropolitan District was lodged in four regulatory bodies: (1) intra-District of Columbia operations, regulated by the Public Utilities Commission of the District of Columbia; (2) intra-Virginia operations, regulated by the State Corporation Commission of Virginia; (3) intra-Maryland operations, regulated by the Public Service Commission of Maryland; (4) interstate operations, regulated by the Interstate Commerce Commission. With the inception of the Compact, the regulation above (except (2)) was transferred to the Washington Metropolitan Area Transit Commission.

In the District of Columbia, only transportation over a regular route (except sightseeing, 47-2331(b), D. C. Code) required a certificate of public convenience and necessity. All other for-hire operations, such as sightseeing and charter, required only that the vehicles be properly licensed. Vehicles having a seating capacity of eight passengers or more, in addition to the driver, had to display a license (LC \_\_\_\_\_) for which a tax of \$100.00 was levied. (47-2331(c), D. C. Code, 1961). All other vehicles (7 passengers or less) displayed a license (LA \_\_\_\_\_) for which a tax of \$25.00 was levied. (47-2331(d), D. C. Code, 1961). The Interstate Commerce Act requires any for-hire interstate transportation to be authorized by a certificate or a permit, except a vehicle performing a bona fide taxicab operation (limited by definition to one having a seating capacity of six passengers or less) and interstate transportation within a municipality or commercial zone, provided the carrier is also lawfully engaged in the intrastate transportation of passengers over the entire length of the interstate route in accordance with the laws of each State having jurisdiction. (Sec. 203(b), 4 and 8, Part 11, Interstate Commerce Act). There are other exceptions, but none applicable to this application.

The applicant operated eight Cadillac limousines in its business. Exhibit No. 3, part of its application, gives the seating capacity of these vehicles as "6 - 11". These vehicles were licensed in the District of Columbia with "LC" tags, for which a license tax of \$100 each was paid, and entitled applicant to attach them to any vehicle having a seating capacity of eight or more passengers. The vehicles are designated as "Model 75". Obviously, the vehicles are of the Cadillac series 75, which have a front seat designed for the driver and two passengers, a rear seat designed for three passengers, and space available for the installation of two "jump seats", designed to expand the seating capacity from five to seven passengers. In considering grandfather applications, the Commission considers the designed seating capacity to be a salient factor in determining what transportation was engaged in by "grandfather" applicants. The Commission finds that these vehicles used by the applicant have a seating capacity of eight passengers or less, excluding the driver.

Holiday's principal business was catering to individuals, mainly tourists who wished to view and tour points of historical interest in the Metropolitan District. Holiday solicited this business mainly from patrons of hotels and motels in the area. As an advertisement, Holiday issued a colorful brochure (Exhibit No. 1-C) which pointed out the main points of interest to see, usually grouped into suggested tours. The Commission considers these suggested tours as proposals, rather than schedules of any type. Holiday will transport the passenger as he directs. The transportation is performed in vehicles having a seating capacity of eight passengers or less, excluding the driver over irregular routes, non-scheduled, and this transportation thus falls within


the definition of a taxicab. (Sec. 2(d), Article XII, Compact). The Commission's jurisdiction over taxicabs is limited to rates and minimum insurance, when the vehicle is used to perform an interstate movement, i.e., from one signatory to another.

On occasions, Holiday had more passengers than could be carried in its limousines. Then it would arrange to have the passengers transported in buses. Holiday claims that it "leased" the buses. As proof of this, it submitted Exhibits Nos. 1-A and 1-B. No. 1-A is a letter from Atwood's Transport Lines, stating that Atwood had "chartered" buses to Holiday in 1960. No. 1-B is simply a bill for \$91.25 from D. C. Transit System, Inc., of Washington, D. C. The document fails to state the type of service rendered. This raises the issue of who was the carrier - Holiday or the owner of the bus. All of the buses were secured from duly authorized carriers - Atwood, D. C. Transit and W. V. & M. Coach Company. The buses were driven by employees of those companies, the employees paid by their regular employers. Holiday, at various times, had an employee aboard the bus as a lecturer. The Commission finds that the trips were performed by the carriers under their certificated rights, and the mere placing of a "lecturer" aboard a bus does not confer "carrier" status upon the employer of the lecturer. This opinion is buttressed by the fact that Holiday had never been issued any operating authority by the Interstate Commerce Commission, nor is a claim under the "commercial zone" exemption valid. The facts are that Holiday itself never operated buses intrastate within the District of Columbia nor intrastate within the State of Virginia, nor intrastate within the State of Maryland. A certificate or permit to operate intrastate in Virginia, issued by the State Corporation Commission, is a vital necessity. Holiday has never been issued operating authority from Virginia or Maryland. Therefore, the Commission finds that Holiday was not bona fide engaged in any type of bus transportation for-hire on the effective date of the Compact.

Having concluded and found that Holiday was bona fide engaged only in performing "taxicab" operations (as defined in Section 2(d), Article XII, Compact) on the effective date of the Compact, which does not qualify for a certificate, the Commission finds that Holiday's application for a certificate of public convenience and necessity should be denied.

THEREFORE, IT IS ORDERED that the application of Holiday Tours, Inc., for a certificate of public convenience and necessity be, and it is hereby, denied.

BY DIRECTION OF THE COMMISSION:

  
DELMER ISON  
Executive Director